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## State Securities Board

NICHOLAS C. TAYLOR  
MEMBER

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November 10, 1995

Mr. Trevor V. Gunderson  
Winthrop & Weinstine  
3200 Minnesota World Trade Center  
30 East Seventh Street  
Saint Paul, Minnesota 55101

RE: Acres Gaming Incorporated

Dear Mr. Gunderson:

This is in response to your letter dated October 30, 1995, and received by this Agency on November 1, 1995.

Your letter and supplemental materials indicate that Acres Gaming Incorporated, a Nevada corporation (the "Company"), intends to offer up to 833,750 shares of its common stock issuable on the exercise of redeemable common stock purchase warrants (the "Warrants"). The Warrants were sold together with common stock in an initial public offering in October 1993. The Warrants are transferable separately from those shares of common stock and each Warrant entitles the holder (the "Warrantholder") to purchase one share of common stock at a price equal to \$7.50 per share, subject to certain adjustments, during a three year period ending October 27, 1996, unless the Company earlier calls for redemption, on not less than 30 days notice. If the Warrants are called for redemption, Warrantholders may exercise their rights until the close of business on the date fixed for redemption. Since the Company is contemplating the exercise of its right to call for redemption, you have asked whether sales of common stock made pursuant to exercises of Warrants by Warrantholders in Texas, if any, who do not hold common stock, would be exempt from the registration requirements of the Texas Securities Act (the "Act").

You have stated that the Company's most recent ownership records indicate that there is one Warrantholder in Texas, who holds 50 Warrants and also owns shares of common stock. Although your materials indicate that the Company might determine in the future to engage a warrant solicitation agent and pay a fee and reimburse the expenses of such agent, you have stated that no commissions or other remuneration will be paid or given for soliciting sales to Warrantholders in connection with the redemption.

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The States Securities Board has taken the position (by negative implication from Section 109.1(b)(1) of this Agency's rules) that, absent a scheme to evade the registration requirements of the Act, an "existing security holder" for purposes of Section 5.E of the Act would include the holder of a transferable warrant. Therefore, assuming that no commission or other remuneration is paid or given directly or indirectly for soliciting any security holder in Texas, Section 5.E would be available to exempt exercises of Warrants to purchase shares of the Company's common stock as described above.

Please note that this Agency has not made an independent investigation of the facts, but has relied solely on the information you have provided. If this information is incorrect or changes substantially, the staff would reconsider the matter and the opinion stated above would be void.

Further, this Agency does not grant nor confer an exemption. Its availability depends entirely on full compliance with its language. If a dispute arises about availability of an exemption, the burden of proof falls on the party claiming the exemption.

Finally, opinions expressed by this Agency are not binding on civil litigants in future proceedings.

I trust this information answers your inquiry. Please feel free to write us if you need further information.

Very truly yours,

DENISE VOIGT CRAWFORD  
Securities Commissioner

Rada Lynn Potts  
General Counsel